

REMARKS

In response to the Office Action mailed July 28, 2009, Applicant respectfully requests the Examiner to reconsider the above-captioned Application in view of the foregoing amendments and the following remarks.

Summary of the Office Action

In the July 28, 2009 Office Action, Claims 1-5 and 7-14 stand rejected by the Examiner. Claims 1-3 and 7-10 stand rejected under 35 U.S.C. 102(b) as being anticipated by International Publication No. WO 01/49199 issued to Baumgartner et al. (hereinafter "Baumgartner"). Further, Claims 4-5 and 11-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Baumgartner. In addition, Claims 4 and 10-12 stand rejected under 35 U.S.C. 112, second paragraph.

Summary of the Amendment

By this paper, Applicant has amended Claims 1, 2, 4-5, 9-10, 12, and 14, added new Claim 15, and canceled Claims 11 and 13. Accordingly, Claims 1-5, 7-10, 12, and 14-15 are currently pending in the present Application. By this paper, Applicant responds to the Examiner's comments and rejections made in the July 28, 2009 Office Action. Applicant respectfully submits that the present Application is in condition for allowance.

In re Rejection under 35 U.S.C. § 112, Second Paragraph

In the Office Action, Claims 4 and 10-12 stand rejected under 35 U.S.C. § 112, first paragraph. Applicant has amended Claims 4 and 10 to address the issued noted by the Examiner in order to expedite the prosecution of the present Application. Applicant believes that the present rejection is now moot and respectfully requests that the present rejection of Claims 4 and 10-12 be withdrawn.

In re Rejection under 35 U.S.C. § 102(b), Based on Baumgartner

In the Office Action, Claims 1-3 and 7-10 stand rejected under 35 U.S.C. 102(b) as being anticipated by Baumgartner. While Applicant reserves the right to prosecute Claims 1 as

previously presented, Applicant has amended Claim 1 and submits that Claim 1 defines over Baumgartner. Accordingly, Applicant respectfully requests that the rejection of Claim 1, as well as that of Claims 2-3 and 7-10, be withdrawn and that these claims be indicated as allowable over the art of record.

Baumgartner is directed to an intraosteal dental implant and to a combined arrangement of an implant and an abutment or a mesial structure mounted on the implant. See Baumgartner, Abstract. As shown at right in Figure 3B of Baumgartner, the implant 1 can have an anatomically suitable conformation for aesthetic restoration, in particular, in the front teeth region. See *id.* at Figures 4A-B. The implant 1 comprises an additive and/or non-additive surface structure 13, in order to favor osteal integration, which extends over the shank section 10, as far as the structure boundary on the neck of the implant 11. See *id.* at Abstract, Figures 2A-3C. This structure boundary 110 falls anteriorly in the apical direction to a low point 111 and rises, on the proximal implant edge, to a high point 112.

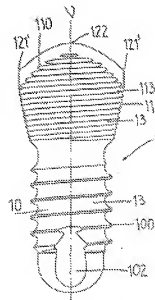


Fig. 3B

In contrast, Claim 1 recites an implant comprising, *inter alia*, “an upper portion to be placed against an upper edge of the jaw bone, the upper portion comprising at least one groove which extends all around the surface and which extends substantially in a cross section substantially at right angles to the longitudinal axis of the implant, said groove having a cup-shaped cross section and having a depth of between about 50 - 100 μm and having a width of between about 70 - 160 μm .” Applicant respectfully submits that Baumgartner fails to disclose at least the above-noted features of Claim 1. As such, Baumgartner cannot anticipate Claim 1.

Baumgartner fails to provide any guidance or disclosure related to at least the above-noted features of Claim 1. Further, as explained in the specification of the present Application, the specific dimensions of the groove of the implant provide significant benefits. For example, the groove enables the implant to not only stimulate bone movement and bone ingrowth, but also to form a barrier against substantial or visible subsidence of the jaw bone with overlying soft tissue at the area of the jawbone and soft tissue that surrounds the implant. None of the prior art

of record discloses a groove having the recited dimensions or that such a groove could provide such advantages.

Therefore, Applicant respectfully submits that Baumgartner is devoid of any disclosure or other teaching of the above-noted features of Claim 1 or advantages provided by such arrangements. Further, Applicant respectfully submits that Claims 2-3 and 7-10 are patentable based on their own merit and for at least the reason that these claims depend from an allowable independent base claim. Accordingly, Applicant respectfully requests that the Examiner withdraw the rejection of these claims under Section 102(b) and indicate that these claims are allowable over the art of record.

In re Rejection under 35 U.S.C. § 103(a), Based on Baumgartner

In the Office Action, Claims 4-5 and 11-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Baumgartner. Applicant respectfully disagrees with this rejection and submits that Claims 4-5 and 11-14 are allowable based on their own merit and for at least the reason that these claims depend from an allowable independent base claim, Claim 1. Accordingly, Applicant respectfully requests that the rejection of Claims 4-5 and 11-14 be withdrawn and that these claims be allowed over the art of record.

New Claim 15

Applicant hereby submits new Claim 15 for consideration which is fully supported by the specification as originally filed. Thus, no new matter has been introduced. Claim 15 is directed to a method of placing a dental implant which comprises, "providing an implant having an upper portion comprising at least one groove which extends around a periphery of the implant and which extends substantially in a cross section substantially at right angles to the longitudinal axis of the implant, said groove having a cup-shaped cross section and having a depth of between about 50 - 100 μm and having a width of between about 70 - 160 μm ; installing the implant into a jaw bone of a patient; and positioning the groove against an upper edge of the jaw bone, the groove stimulating bone movement and bone ingrowth to form a barrier against substantial or visible subsidence, around the portion, of the jaw bone with overlying soft tissue." Applicant

respectfully submits that Claim 15 is allowable over the art of record and request that the Examiner indicate the allowance of Claim 15.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

Applicants respectfully submit that the above rejections and objections have been overcome and that the present Application is now in condition for allowance. Therefore, Applicants respectfully request that the Examiner indicate that Claims 1-5, 7-10, 12, and 14-15 are now acceptable and allowed. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the amendments are made only to expedite prosecution of the present Application, and without

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prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Applicants also have not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicants reserve the right to later contest whether a proper reason exists to combine these references and to submit indicia of non-obviousness.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claim and drawings in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicants' attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: November 30, 2009

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